

HOUSE BILL 230

G2, L2

0lr0580

By: **Howard County Delegation**

Introduced and read first time: January 25, 2010

Assigned to: Environmental Matters

Committee Report: Favorable

House action: Adopted

Read second time: March 16, 2010

CHAPTER _____

1 AN ACT concerning

2 **Howard County Ethics Law – Clarifications and Enhancements**

3 **Ho. Co. 1–10**

4 FOR the purpose of altering provisions of the Howard County ethics law; clarifying a
5 certain definition; making certain persons subject to the Howard County ethics
6 law under certain circumstances; altering provisions governing the preparation
7 of a certain report about the affidavits and disclosures filed by certain persons
8 under the Howard County ethics law; requiring that the summary reports be
9 made available for immediate inspection by the public; and generally relating to
10 the Howard County ethics law.

11 BY repealing and reenacting, with amendments,

12 Article – State Government
13 Section 15–848 and 15–849
14 Annotated Code of Maryland
15 (2009 Replacement Volume)

16 BY repealing and reenacting, without amendments,

17 Article – State Government
18 Section 15–850
19 Annotated Code of Maryland
20 (2009 Replacement Volume)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
2 MARYLAND, That the Laws of Maryland read as follows:

3 **Article – State Government**

4 15–848.

5 (a) In this Part VII the following words have the meanings indicated.

6 (b) (1) “Applicant” means an individual or a business entity that is, with
7 regard to the land that is the subject of the application:

8 (i) a title owner, assignee, or contract purchaser of the land;

9 (ii) a trustee that has an interest in the land, other than as a
10 trustee described in a mortgage or deed of trust; or

11 (iii) a holder of a 5% or greater interest in the business entity
12 that has an interest in the land if:

13 1. the interest holder is involved significantly in
14 directing the affairs of the business entity, including the disposition of the land; or

15 2. the interest holder is engaged in substantive actions
16 specifically pertaining to land development in Howard County as a regular part of the
17 activity of the business entity.

18 (2) “Applicant” includes:

19 (i) any other business entity in which an individual or business
20 entity described in paragraph (1) of this subsection holds a 3% or greater interest; [or]

21 (ii) an officer or director of a corporation who actually holds title
22 to, or is the contract purchaser or assignee of, the land that is the subject of an
23 application if:

24 1. the corporation is listed on a national securities
25 exchange and the officer or director owns 5% or more of its stock; or

26 2. in the case of any other corporation, the officer or
27 director owns any interest in the corporation; **OR**

28 **(III) AS TO AN APPLICATION FOR A ZONING REGULATION,**
29 **ANY PERSON AUTHORIZED TO SIGN THE APPLICATION.**

30 (3) “Applicant” does not include:

1 (i) a financial institution that has loaned money or extended
2 financing for the acquisition, development, or construction of improvements on the
3 land that is the subject of an application;

4 (ii) a municipal or public corporation;

5 (iii) a public authority;

6 (iv) a public service company acting within the scope of the
7 Public Utility Companies Article; or

8 (v) a person who is:

9 1. less than a full-time employee of a person described
10 in paragraph (1) or paragraph (2) of this subsection; and

11 2. hired or retained as an accountant, attorney,
12 architect, engineer, land use consultant, economic consultant, real estate agent, real
13 estate broker, traffic consultant, or traffic engineer.

14 (c) "Application" means:

15 (1) an application for a zoning map amendment;

16 (2) an application for a zoning regulation amendment; or

17 (3) participation in the adoption and approval of a comprehensive
18 zoning plan by appearing at a public hearing, filing a statement in an official record,
19 or engaging in other similar communication to an elected official, where the intent is
20 to change the classification or increase the density of the land of the applicant.

21 (d) "Business entity" means:

22 (1) a sole proprietorship;

23 (2) a corporation;

24 (3) a general partnership;

25 (4) a limited partnership;

26 (5) a limited liability company; or

27 (6) a joint venture.

28 (e) "Candidate" means a candidate for election as Howard County Executive
29 or to the Howard County Council who becomes an elected official.

1 (f) "Contribution" means any payment or transfer of money or property or
2 the incurring of any liability or promise of anything of value to the treasurer of a
3 candidate, a political committee, or a slate.

4 (g) "Contributor" means an individual or business entity that makes a
5 contribution.

6 (h) "Elected official" means an individual who serves as Howard County
7 Executive or as a member of the Howard County Council.

8 (i) (1) "Engaging in business" means entering into any:

9 (i) sale, purchase, lease, or other transaction involving goods,
10 services, or real property; or

11 (ii) contract, award, loan, extension of credit, or any other
12 financial transaction.

13 (2) "Engaging in business" does not include the sale of goods to an
14 individual for the use or consumption of the individual or others for personal, family,
15 or household purposes, as distinguished from industrial, commercial, or agricultural
16 purposes.

17 (j) "Family member" means the spouse or child of either an applicant or a
18 party of record who has made a contribution with the knowledge and consent of the
19 applicant or party of record.

20 (k) "Party of record" means an individual or business entity that participates
21 in a map amendment proceeding by the County Council or the zoning board, or who
22 participates in the adoption and approval of a comprehensive zoning plan by
23 appearing at a public hearing, filing a statement in an official record, or engaging in
24 other similar communication to an elected official where the intent is to oppose a
25 change in classification or an increase in density of the land of an applicant.

26 (l) "Political action committee" means a political committee that is not:

27 (1) a political party;

28 (2) a central committee;

29 (3) a slate; or

30 (4) a political committee organized and operated by, and solely on
31 behalf of, an individual running for any elective office or a slate.

1 (m) "Political committee" means a committee, continuing or noncontinuing,
2 specifically created to promote the candidacy of a person running for elective office.

3 (n) "Slate" means a group, combination, or organization of candidates created
4 under the provisions of the Election Law Article.

5 (o) (1) "Treasurer" has the meaning provided in § 1–101 of the Election
6 Law Article.

7 (2) "Treasurer" includes a subtreasurer.

8 15–849.

9 (a) (1) When an application is filed, the applicant shall file an affidavit,
10 under oath, stating whether the applicant:

11 (i) has made any contribution or contributions having a
12 cumulative value of \$500 or more to the treasurer of a candidate or the treasurer of a
13 political committee during the 48–month period before the application is filed, to the
14 best of the applicant's information, knowledge, and belief; or

15 (ii) is currently engaging in business with an elected official.

16 (2) (i) If the applicant or a party of record or a family member has
17 made a contribution or contributions having a cumulative value of \$500 or more
18 during the 48–month period before the application was filed or during the pendency of
19 the application, the applicant or the party of record shall file a disclosure providing the
20 name of the candidate or elected official to whose treasurer or political committee the
21 contribution was made, the amount, and the date of the contribution. However, if the
22 party of record is a community association, this paragraph may not be construed to
23 require the association to poll its members to disclose individual contributions.

24 (ii) A contribution made between the filing of the application
25 and the disposition of the application shall be disclosed within 5 business days of the
26 contribution.

27 (3) An applicant who begins engaging in business with an elected
28 official between the filing of the application and the disposition of the application shall
29 file the affidavit at the time of engaging in business with the elected official.

30 (b) Except as provided in subsection (a)(3) of this section, the affidavit or
31 disclosure shall be filed at least 30 calendar days prior to any consideration of the
32 application by an elected official.

33 (c) Within 2 weeks after entering a proceeding, a party of record that has
34 made a contribution shall submit a disclosure as described in subsection (a)(2) of this
35 section.

1 (d) (1) Except as provided in paragraph (2) of this subsection, a
2 contributor and an elected official are subject to the provisions of this Part VII if the
3 contributor makes a contribution to:

4 (i) the candidate;

5 (ii) a slate; or

6 (iii) the candidate's political committee.

7 (2) The provisions of this Part VII do not apply to a transfer by a
8 political action committee to a candidate or the candidate's continuing political
9 committee.

10 (e) An affidavit or a disclosure required under this Part VII shall be in a
11 form established by the Howard County Solicitor and approved by the County Council.
12 The completed form shall be filed in the appropriate case file of an application. The
13 disclosure form shall repeat the penalty provision in § 15-850(a) of this Part VII.

14 (f) A contribution made after the filing of the initial disclosure and before
15 final disposition of the application by the County Council shall be disclosed within 5
16 business days of the contribution.

17 (g) In the enforcement of this Part VII, the administrative clerk to the zoning
18 board or the administrator of the County Council, as appropriate, considering an
19 application shall be subject to the authority of the Howard County Ethics Commission
20 and, unless otherwise directed by the Ethics Commission, shall:

21 (1) receive filings of affidavits and disclosures;

22 (2) maintain filed affidavits and disclosures as public records available
23 for review by the general public during normal business hours;

24 (3) report violations to the Howard County Ethics Commission; and

25 (4) perform ministerial duties necessary to administer this Part VII.

26 (h) (1) [At least twice each calendar year] **PROMPTLY ON RECEIPT**, the
27 administrative assistant to the zoning board and the administrator of the County
28 Council shall prepare a summary report compiling all affidavits and disclosures [that
29 have been] filed **UNDER THIS PART VII**.

30 (2) The summary report shall be a matter of public record and
31 available for **IMMEDIATE** inspection upon written request.

1 (a) (1) Any person who knowingly and willfully violates the provisions of
2 this Part VII is subject to a fine of not more than \$5,000.

3 (2) If the person is not an individual, each officer and partner who
4 knowingly authorized or participated in the violation is subject to the same penalty
5 specified in paragraph (1) of this subsection.

6 (b) (1) Any person who is subject to the provisions of this Part VII shall
7 preserve for 3 years from the date of filing the application all accounts, bills, receipts,
8 books, papers, and documents necessary to complete and substantiate any reports,
9 statements, or records required to be made under this Part VII.

10 (2) The papers and documents described in paragraph (1) of this
11 subsection shall be available for inspection upon request to the Howard County Ethics
12 Commission, after reasonable notice.

13 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
14 July 1, 2010.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.